

## **Consumer Protection and the Debt Settlement Industry**

As the amount of unsecured consumer debt has increased and economic growth has slowed, the for-profit debt relief industry appears to have undergone significant expansion. The FTC staff is hosting the upcoming workshop to examine in depth the for-profit debt settlement industry and the effectiveness of existing consumer protections relating to the industry.

The workshop will explore the history and development of the for-profit debt settlement industry, compare and contrast the status of the debt settlement industry with that of the non-profit credit counseling industry, review current business practices and consumer protection issues, and consider the outlook for the future of the industry. In these contexts, we seek to further understand the impact that the growth of the for-profit debt settlement industry has had on businesses and consumers.

The for-profit debt settlement industry has drawn the attention of state and federal law enforcement agencies and regulators in recent years. State Attorneys General have engaged in several enforcement actions addressing a variety of practices within the for-profit debt settlement industry. Over the past few years, the FTC also has brought enforcement actions, which alleged violations of Section 5 of the FTC Act for various deceptive marketing practices.

In addition to these enforcement actions, several state legislatures are considering enacting the Uniform Debt Management Services Act or other legislation that addresses the for-profit debt relief industry. In addition, many states have already passed legislation regulating the industry. Despite these efforts, some consumers complain that they did not get what they bargained for from for-profit debt settlement companies, that they were surprised by program fees, that their enrollment in a debt settlement program may have hurt their credit score, or that their involvement with the for-profit debt relief industry ultimately led them to bankruptcy.

Given the increasing prominence of the debt settlement industry and the importance of protecting consumers from deceptive and unfair practices in this area, the FTC staff is convening this workshop to learn more about the nature and extent of developments in the debt settlement industry and to consider changes in law or policy that might assist the agency in fulfilling its core mission of protecting consumers.

## FEDERAL TRADE COMMISSION DEBT SETTLEMENT WORKSHOP

September 25, 2008

### Topics for Comment

The FTC staff values any information that you can provide. If you do not have information responsive to all of our questions, please feel free to answer the questions that you can and to provide partial responses. We also welcome any relevant information that our questions have not addressed. Thank you for your participation.

Because the for-profit debt relief sector has been expanding and changing very quickly, we feel that it is important to establish a common vocabulary for our questions and your responses. The words and phrases we have selected are not necessarily the same as the prevailing industry definitions. We have selected these words for the limited purpose of establishing a common basis of understanding for commenters.

When we say “**Credit Counseling**,” we mean services offered by non-profit agencies that assist consumers in repaying their debts through budgeting, financial advice, or debt management plans.

When we refer to the “**Debt Relief Industry**,” we mean the business sector covering all products designed to assist consumers in dealing with debt, including credit counseling and debt settlement.

When we use the phrase “**Debt Management Plan**” we mean a plan established for a consumer by a credit counseling agency that involves a consumer paying one consolidated periodic payment to the program to cover debts that are included in the program, and the program periodically disbursing payments to the creditors of the consumer.

A “**Debt Settlement Company**” is a for-profit company that offers debt settlement services to consumers.

When we use the phrase “**Debt Settlement Plan**” we mean a plan established for a consumer by a debt settlement company through which the consumer, instead of paying his creditors on a monthly basis, accumulates funds, which the debt settlement company uses to negotiate with creditors to discharge the consumer’s debt for a percentage of the amount owed.

As used here, the word “**Settlement**” means the discharge of a debt by a creditor for less than the full amount of debt owed.

**Areas for Comment:** \_\_\_\_\_

#### ***1. Demographic and Industry Information for Debt Settlement Companies***

Please provide information on the size and nature of the for-profit debt settlement industry. For example, we would like to understand how many debt settlement

companies operate in the marketplace, the different business models that exist for debt settlement companies, and the types and extent of consumer debts accepted into debt settlement plans.

## **2. *Demographic and Industry Information for Non-profit Credit Counseling Agencies***

Please provide information on the size and nature of the non-profit credit counseling industry.

## **3. *Industry Trends***

Please provide information on recent changes in the debt relief industry, and the roles of the for-profit debt settlement companies and non-profit credit counseling agencies. In particular, we are interested in hearing about the primary causes of growth in the for-profit debt settlement industry, whether this growth is attributable to a gap in other consumer debt management options, and what functions the debt relief industry typically outsource to third-party service providers.

## **4. *Debt Settlement Practices and Techniques***\_\_\_\_\_

Please provide information on how debt settlement companies market their services, what services they typically provide, and what practices are used in obtaining settlements for consumers. In addition, we are interested in information about the types of disclosures provided to consumers, the success rate and cancellation rate for debt settlement plans, and the ways in which a debt settlement company's knowledge of a creditor's track record influence the services offered to consumers.

## **5. *Creditor Policies***

Please provide information on how creditors work with the debt settlement industry.

## **6. *Industry Compliance with Federal and State Law***

\_\_\_\_\_ Please provide information about practices and procedures debt settlement companies have in place to ensure compliance with applicable federal and state laws. In particular, we are interested in hearing about the most common consumer complaints about debt settlement companies and about the effectiveness of industry self-regulatory efforts in furthering the goal of consumer protection.

## **7. *Legal and Regulatory Issues***

Please provide information about the ways in which recent legal developments, such as new state legislation, have affected the debt settlement industry. Please also comment on whether additional consumer education on debt settlement plans would assist consumers. If so, what issues should such consumer education address?